IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

FAO.No. 194 of 2006()

AGAINST THE ORDER DATED 04/08/2006 IN IA 4313/06, IA 4571/06 IN OS.796/1996 of PRL.SUB COURT,THRISSUR

APPELLANT:

NIRMAL THAMPAN, S/O.LATE PAMBUMKATTIL SANKARAN, PATTIKKAD, PANANCHERRY, THRISSUR.

BY ADV. SRI.D.SOMASUNDARAM

RESPONDENTS:

1. V.SOUDAMINI (RETIRED TEACHER), PAMBUMKATTIL HOUSE, PATTIKKAD DESOM, PANANCHERRY, THRISSUR.

2. SUBASH CHANDRAN, PAMBUMKATTIL, VANIYAMBARA, PEECHI, THRISSUR.

3. SANTHA BHAI, LAKSHMI SADANAM, VALAPPAD VILLAGE, CHAVAKKAD, THRISSUR.

4. THANKOM, MENOTH PARAMBIL, PERINGOTTUKARA VAKAKKUM MURI, THRISSUR.

5. DR.SIVANJANAVALLY, PAMBUMKATTIL, CHERUTHURUTHY VILLAGE, THRISSUR.

6. SADASIVAN, PAMBUMKATTIL, CHERUTHURUTHY, THRISSUR.

7. SIVARAMAN, THOPPIL, THRIPPAKKULAM LANE, CHEMBUKKAVU VILLAGE, THRISSUR.

8. DEVAKY, SAI GEETHA, ANCHERY,
THRISSUR DISTRICT.

9. SANKARA NARAYANAN,
THOPPIL, ANCHERY, OLLOOR,
THRISSUR DISTRICT.

10. OMANA, THOPPIL,
ANCHERY, OLLUR, THRISSUR DISTRICT.

11. PADMAVATHY, THOPPIL,
ANCHERY, OLLUR, THRISSUR DISTRICT.

12. RAMACHANDRAN, THOPPIL, ANCHERY,
OLLUR, THRISSUR DISTRICT.

13. SREE DHARMA SASTHA TEMPLE IDOL,
REPRESENTED BY ITS RELATIVE AND DEVOTEE
SUBASH CHANDRAN, PAMBUMKATTIL, VARINJAMBRA,
PEECHI, THRISSUR DISTRICT.

14. EKANATH, PAMBUMKATTIL HOUSE,
PATTIKKAD, PANANCHERY, THRISSUR DISTRICT.

15. BABY RANI, PAMBUMKATTIL,
PATTIKKAD, PANANCHERY, THRISSUR.

R1 AND R14 BY ADV. SRI.D.SREEKUMAR
R2 TO R7 BY ADV. SRI.SUBRAMANIAN

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 31/10/2006, ALONG WITH WPC NO. 21213 OF 2006 , THE COURT ON 19/12/2006 PASSED THE FOLLOWING:

M.RAMACHANDRAN & K.T. SANKARAN, JJ.

F.A.O.NO. 194 OF 2006

and

W.P.(C) NO. 21213 OF 2006 A

Dated this the 19th day of December, 2006

JUDGMENT

Sankaran, J.

The order impugned in the Appeal is the same order which is sought to be quashed in the Writ Petition. The F.A.O is filed by the second defendant and the Writ Petition is filed by the first defendant in O.S.No.796 of 1996, on the file of the Court of the Principal Sub Judge, Thrissur. In that suit, a preliminary decree was passed on 8.8.2001. Application for passing final decree was filed by the plaintiffs and the court below passed a final decree on 31.5.2006. The final judgment and decree are challenged by the appellant in F.A.O.No.194 of 2006 and the petitioner in W.P.(C) No.21213 of 2006 and others in R.F.A.No.326 of

2006. Today, we have disposed of R.F.A.No.326 of 2006.

2. The order impugned in this appeal and the Writ Petition was passed in the final decree proceedings referred to above. All the parties agreed to conduct a fresh election and accordingly, the election conducted by the Commissioner on 11.7.2006 was set aside. A fresh election was ordered to be conducted. As per the order impugned, the court below directed the second defendant to handover records and keys to the Commissioner as soon as the election is over and directed the Commissioner to handover keys and records to the newly elected Managing Trustee.

No interim order was granted either in the F.A.O or in the Writ Petition staying the election. The election was conducted by the Commissioner and the new committee is to take charge as directed in

the order impugned in the FAO and Writ Petition, namely, the order dated 4th August, 2006. In view of the subsequent developments and also in view of the disposal of R.F.A.No.326 of 2006, the F.A.O as well as the Writ Petition have become infructuous and they are accordingly dismissed. The interim order dated 1.9.2006 in the FAO and the Writ Petition shall stand vacated. The court below shall duly implement the order dated 4th August, 2006. The court below shall pass appropriate orders in the final decree proceedings regarding the hundials and the keys.

(M.RAMACHANDRAN)
Judge

(K.T.SANKARAN)
Judge

ahz/